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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,456	11/17/2000	Egor Ciotic		6894

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EXAMINER

FLYNN, AMANDA R

ART UNIT PAPER NUMBER

3743

DATE MAILED: 11/28/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/715,456

Applicant(s)

CIOTIC, EGOR

Examiner

Amanda R. Flynn

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-2,5,7-11,13,15-18 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 15-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 11 and 15-18 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 3.

Drawings

2. This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required if the application is allowed.

Claim Objections

3. Claims 1, 5 and 7 are objected to because of the following informalities:

In line 9 of claim 1 (subsection c) it is recommended that the phrase "includes a hose" be amended to read: --includes a flexible hose-- to clarify that "hose" recited in this line is the same structure as the "flexible hose" recited in line 16. Further, it is suggested that line 16 is amended to read: --includes the flexible hose-- instead of "includes a flexible hose," again to clarify that the recited "hoses" are the same.

It appears that claim 5 was intended to depend from claim 2. However, by Applicant's last amendment, the claim dependency has been deleted. The Examiner is treating claim 5 as if it depended from claim 2.

It appears that in claim 7 (line 4) the phrase "said means for urging vapors" should be replaced with: --said means for venting vapors-- to provide proper antecedent basis for the phrase.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 1,111,353 to Maier et al. in view of U.S. Patent Number 4,620,329 to Wix.

Maier et al. disclose a portable venting commode, comprising a portable frame structure, a toilet seat (4) attached to the frame, and means for venting vapors (best Figure 3). The means for venting vapors include a flexible hose (15), having a first end that is connected to the frame structure, and a second, opposite end that terminates outside of the toilet structure and is adapted to urge vapors away from the portable toilet, via an attached fan (10). As best seen in Figure 3, the toilet seat contains several holes and openings that cooperate with the fan, to urge vapors out of the toilet. Maier et al. state that the fan is powered by a cable (19), but does not specify that a DC brushless motor be used. It would have been obvious to one skilled in the art at the time the invention was made to power the fan with a DC brushless motor that (along with the hose) can produce a positive or negative pressure in a portion of the hose, to achieve a desired CFM per minute and reduce sound. Maier et al. do not specify that the vapors are disposed outside of the room in which the toilet resides or that the fan is powered by a DC brushless motor.

Wix discloses a toilet (11), having means for venting toilet vapors. Wix states that a conduit hose leads vapors away from the toilet, and expels the vapors in a remote location, outside of the room in which the toilet resides (col. 3, lines 31-37).

It would have been obvious to one skilled in the art at the time the invention was made to have provided the portable venting commode disclosed by Maier et al., wherein the means for venting vapors disposes the toilet vapors outside of the room in which the toilet resides, for redundancy and optimality in odor treatment and removal.

6. Claims 2, 5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maier et al. in view of Wix, and in view of U.S. Patent Number 4,848,841 to Holley.

Maier et al. in view of Wix teaches the previously described portable venting commode. Maier et al. disclose a portable frame structure but do not state that the frame structure is adapted for placement over a conventional fixed-mount flush-type toilet.

Holley discloses a portable commode, having a portable frame structure that is adapted for placement over a conventional flush-type toilet. Holley discloses that an open-ended chute (86) is attached to the toilet seat to guide waste into the conventional toilet bowl. As seen in the figures, the chute is conical in shape and cylindrical in section.

It would have been obvious to one skilled in the art to have provided the portable venting commode disclosed by Maier et al. in view of Wix, wherein the frame structure that has an open-ended chute and is adapted for placement over a conventional flush-type toilet, as taught by Holley, for immediate disposal and removal of waste from the portable frame.

Allowable Subject Matter

7. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 14 October 2003 have been fully considered but they are not persuasive.

On page 12 of the remarks, Applicant argues that the modification of the Maier et al. reference, with the teaching of Wix is improper, because the teaching of supplying vent hoses to a portable toilet teaches away from the invention of a portable toilet. The Examiner disagrees with this position. Wix teaches means for venting a toilet, including a conduit hose that leads vapors away from the toilet, and expels the vapors in a remote location, outside of the room in which the toilet resides, for optimal odor removal. This teaching would apply equally well to a stationary or portable toilet, or any toilet facility in which it is desired that the environment be odor-free. Wix's teaching is not limited solely to stationary toilets. Wix simply teaches a means for removing odors from an undesired location.

On page 16 of Applicant's remarks it is argued that the prior art does not suggest the combination of elements recited in claim 1. The Examiner disagrees with this position, as it is believed that the rejection stated above (paragraph 5) addresses each and every claim limitation.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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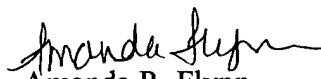
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda R. Flynn whose telephone number is 703-306-4056.

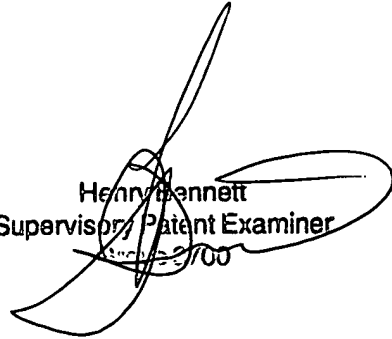
The examiner can normally be reached on Monday-Thursday, 8:30 - 6:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Amanda R. Flynn
Examiner
Art Unit 3743


arf


Henry A. Bennett
Supervisor, Patent Examiner
703-308-0101